IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

S.A. No. 57 OF 2007

Sikandarsha s/o Ibrahimsha & ors.
v.
Ansarukllal s/o Karamathulla Khan & ors.

Office Notes, Office Memoranda of Coram appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

Mr.S.V.Sohoni Advocate for the appellants.

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CORAM: A.B. CHAUDHARI, J.
DATED : 1st NOVEMBER, 2007.

Heard Mr.Sohoni, learned counsel for the appellants. Concurrent findings of fact recorded by the courts below in relation to possession of appellants over Survey No.308/2 is under challenge in the present appeal.

2. Having heard the learned counsel for the appellants, to my mind , the finding that the appellants were not found in possession of Survey No.308/2, is well founded on facts, so also the survey that was undertaken and hence cannot be faulted.

The following extract from paragraph 14 of the appellate order clearly assigns the reasons for the said finding of fact.

> " .....However, if boundaries referred by the respondent no.1 taken into consideration then it can be gathered that though the previous record related with suit land is to the effect of survey no.308 still the boundaries referred by the respondent no.1 correctly as per new position i.e. Survey no.308/2. At this stage it is necessary to keep in mind that though there is any confusion of survey no. etc. still boundaries will only prevail. If by this only way look towards the present matter then it can be gathered that the evidence available on record particularly the documents as well as oral evidence, then it can be safely gathered that appellant fails to prove suit claim. In the light of this position appellants are not entitled for decree of relief of permanent injunction for which they

> should have proved actual and physical position of the suit land."

In view of the above, I am not inclined to interfere with the findings of fact in relation to possession as recorded by the courts below. Second appeal is therefore dismissed.

JUDGE

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